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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

SEP 16 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Telephone Number Portability

CC Docket No. 95-116

RM 8535

**REPLY COMMENTS OF AMERITECH IN RESPONSE
TO FURTHER NOTICE OF PROPOSED RULEMAKING**

Ameritech files its Reply Comments in response to the Commission's Further Notice of Proposed Rulemaking in the LNP Cost-Recovery Order.¹ In the LNP Cost-Recovery Order, the Commission required (para. 167) that carriers and interested parties file comments "proposing ways to apportion the different types of joint costs." As requested, on August 3, 1998, Ameritech filed its Further Comments, including Appendixes A-G in this docket. Ameritech's Further Comments describe in detail how it intends to identify and allocate different types of joint and common costs that will be recovered through the LNP surcharge, and through rates applicable to the long-term number portability query service ("LNP Query Service") and unbundled access to the LNP database.

In its Further Comments, Ameritech describes its proposed general cost methodology, and how it intended to development and use forecasts to allocate joint costs between LNP-related services. Ameritech also identified each functionality, facility, equipment, and software that it

¹ Telephone Number Portability, CC Docket No. 95-116, RM 8535, Third Report and Order, released May 12, 1998 ("LNP Cost-Recovery Order").

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claims is incremental to LNP, and explains why the addition, modification or augmentation was result to provision or provide LNP.

In its Further Comments, Ameritech proposes that the LNP Query Service, like other new interstate access services, not only recover incremental overhead costs, but also provide a reasonable contribution to general overhead costs. Since the LNP Query Service benefits from these overheads, there is no reason why users of that services should not contribute to their recovery on the same basis as users of other interstate services. To that end, Ameritech proposes that general overhead costs be allocated to the LNP Query Service through the use of a general overhead allocation factor that is developed based upon ARMIS data. This is the accepted methodology for pricing new interstate services, and its use was specifically authorized by the Commission for use in calculating overheads applicable to a new service under Open Network Architecture ("ONA").²

Prior to filing these Reply Comments, Ameritech was not be able to review the reply comments of other parties since they are also being filed today. Consequently, Ameritech did not have an opportunity in these Reply Comments to refute any oppositions to its Further Comments. In anticipation of this procedural incongruity, Ameritech tried to anticipate arguments that its opponents may raise, and to refute them in the Appendices to its Further Comments. Rather than repeat the material presented in those Appendices here, Ameritech refers the Commission to them, and incorporates them by reference.

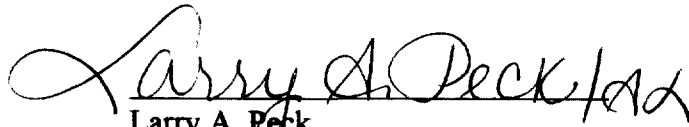
Moreover, Ameritech's expectation is that many of the arguments that will be raised in the Reply Comments in opposition to Ameritech's Further Comments, were also raised by the same parties in their Oppositions to Ameritech Proposal for Reconsideration and Clarification

² See, Open Network Architecture Tariffs of Bell Operating Companies, CC Docket No. 92-91, Order, released December 15, 1993 at para. 50 n.93.

("PFR") filed in this Docket. Ameritech is filing today its Reply Comments today refuting each of the oppositions to its PFR. Rather than repeat the arguments it made in its PFR Reply Comments, Ameritech refers the Commission to that pleading, and incorporates it by reference. For the Commission's convenience, Ameritech is attaching a copy of its PFR Reply Comments as Attachment A.

For the reasons described above, the Commission should expeditious authorize Ameritech to file tariffs implementing the LNP monthly charge pursuant to the principles proposed in Ameritech's Further Comments. In addition, the Commission should authorize Ameritech to price the Query Services as new interstate access services consistent with the principles proposed in Ameritech's Further Comments.

Respectfully submitted,

A handwritten signature in cursive script that reads "Larry A. Peck". The signature is written in dark ink and is positioned above the printed name and address.

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Dated: September 16, 1998
[LAP0207.doc]

CERTIFICATE OF SERVICE

I, Todd H. Bond, do hereby certify that a copy of the foregoing Reply Comments of Ameritech in Response to Further Notice of Proposed Rulemaking has been served on all parties of record, via first class mail, postage prepaid, on this 16th day of August, 1998.

By:

Todd H. Bond / *ax*
Todd H. Bond

Attachment A

In the Matter of)
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Telephone Number Portability) CC Docket No. 95-116
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¹ Telephone Number Portability, CC Docket No. 95-116, RM 8535, Third Report and Order, released May 12, 1998 (“LNP Cost-Recovery Order”).

through the LNP surcharge. This approach will ensure consistency and eliminate duplication and inefficiency.

6. The Commission should find that the LNP surcharge should be assessed to end users using FGA access service, where they are used like other exchange lines that are subject to the surcharge.

Although several pleadings were filed in the opposition phase of the proceeding, if the Commission looks past the usual inflammatory verbiage, it will find that there is little real opposition to Ameritech's proposals. There is clear support for many of Ameritech's proposal from the other incumbent LECs.² Moreover, the interexchange carriers do not oppose many of Ameritech's proposals, and in some cases support them. For instance, the interexchange carriers oppose assessment of the surcharge to feature group A (FGA) lines³ provided to carriers. However, Ameritech only seeks to assess the surcharge on FGA lines provided to end users, a concept that the interexchange carriers did not oppose.

Along the same lines, Vanguard⁴ proposes that commercial mobile radio service ("CMRS") providers "line side interconnection under Type 1 arrangements" also be exempt from the surcharge. However, not only is Vanguard's proposal an untimely request for reconsideration or clarification, it also should be rejected because it is inconsistent with the Commission's LNP Cost Recovery Order. Like unbundled local switching and resold services, Type 1 interconnection utilizes the incumbent LECs' local switching and LNP and, therefore, should also pay the surcharge.

Other examples of the lack of any real opposition to Ameritech's proposals is its request that the Commission order recovery of interim number portability costs through the LNP

² See generally, Bell Atlantic; BellSouth Corporation ("BellSouth"); Cincinnati Bell; SBC Corporation, Inc., ("SBC"). See also, United States Telephone Association ("USTA") at 4-5.

³ See, AT&T 12-13; MCI 8-9.

⁴ Vanguard Cellular Systems, Inc. ("Vanguard"), at 5.

surcharge, and clarify the status of access to the LNP database. No incumbent LECs opposed these proposals.⁵ Only one interexchange carrier, MCI, addresses either issue and it supports the proposal that interim number portability costs be recovered through the surcharge.⁶

Only three of Ameritech's proposals drew apparent opposition – the application of the surcharge to PBX trunks, the use of factors to estimate the incremental overhead costs of LNP, and application of general overheads to the Query Service.⁷ To the extent that there is genuine opposition that Ameritech has not yet addressed, Ameritech will demonstrate that it is groundless. Ameritech will show that competitive-neutrality requires that PBX trunks, like all other exchange services, be assessed one LNP surcharge per trunk. Regarding recovery of LNP incremental overhead costs, Ameritech will show that a close reading of interexchange carriers' comments discloses that they do not oppose Ameritech's proposal that all incremental overhead costs of LNP be recovered through the use of loading factors.⁸ Rather, they oppose allocation of general overhead costs to LNP, something that Ameritech did not propose in its PFR.

I. COMPETITIVE-NEUTRALITY REQUIRES THAT EACH PBX TRUNK PAY ONE LNP SURCHARGE

AT&T (at 10-12) opposes Ameritech's and the other incumbent LECs' proposal⁹ that the Commission permit incumbent LECs to apply one LNP surcharge to each PBX trunk. AT&T

⁵ See, Cincinnati Bell at 4, who supports Ameritech's proposal that the Commission clarify the status of access to the LNP database.

⁶ MCI, at 13.

⁷ Ameritech and the other incumbent LECs have already explained in detail why the LNP Query Service, like other access services, should make a reasonable contribution to general overhead costs. It will not re-argue the issue here.

⁸ AT&T (at 6) makes a big deal out of the inclusion of certain costs in the loading factor. But, Ameritech will not seek to recover these overhead costs.

⁹ The Telecommunications Association ("UTA"), a users group, (at 3-5) also supports Ameritech's position because the Commission's Order will "disrupt the relationship between PBX trunk and single business line rates." USTA also supports Ameritech's position (at 4-5).

correctly points out that the Commission has determined that the LNP surcharge should apply to exchange services that use local switching. However, AT&T then erroneously argues that as a result, the surcharge should be based on the “number of switch ports the customer utilizes at the LEC’s end office [which] determines the number of simultaneous calls the customer’s PBX will accommodate.” (AT&T at 11.) AT&T complains that “if the Commission adopted the ILECs’ position, it would require CLECs purchasing unbundled switching to pay a LNP surcharge for each switch port they utilize, while permitting ILECs to charge their own PBX and Centrex users only a small fraction of an end user surcharge for each switch port they use.” (*id.*) AT&T’s argument is either intentionally misleading or demonstrates a fundamental misunderstanding of the costs recovered through the surcharge.

Contrary to AT&T’s assertion, the LNP surcharge is not a rate designed to recover switch or switch port costs. Instead, it is a statutorily mandated subsidy recovering LNP costs. As a result, the amount that each end user should pay toward LNP costs has no logical relationship to the number of switch ports it uses. Rather, switching and port costs are recovered through other local exchange and usage rates.

The correct question is how much of the subsidy toward LNP should PBX customers pay. Under Section 251(e) of the Telecommunications Act of 1996, the LNP surcharge is a “competitively-neutral” mechanism designed to subsidize the recovery of the costs of LNP. As such, PBX customers should pay a competitively-neutral share of these costs. Under the Commission’s LNP Cost Recovery Order, “competitively-neutrality” requires that “the cost of number portability borne by each carrier does not affect significantly any carrier’s ability to compete with other carriers in the marketplace.” (para. 52)

Therefore, the correct question is whether application of nine LNP surcharges to each PBX trunk will place incumbent LECs at a significant competitive disadvantage when competing against other providers of PBX trunks that are not required to overcharge their customers for LNP. Moreover, will this mechanism place PBX equipment vendors at a significant disadvantage when competing against other services, such as key systems that only pay one surcharge per line? The answer to both questions is clearly "yes." AT&T presents no contrary evidence that this significant over allocation of the LNP cost-recovery to incumbent LECs' PBX customers will not place incumbent LECs and PBX vendors at a competitive disadvantage, and its opposition should be rejected. Since the Commission has already determined that competitive neutrality requires that Centrex pay 1/9th of the surcharge paid by users of a PBX trunk, each Centrex line should pay 1/9th of the LNP surcharge.

II. MOST INCREMENTAL OVERHEAD COSTS CAN ONLY BE ESTIMATED.

A. Ameritech Proposes Recovery of Only Incremental Overhead Costs of LNP.

Some interexchange carriers to confuse Ameritech's position on recovery of incremental overhead costs with the proposal of some incumbent LECs that they recover general overhead costs through the surcharge.¹⁰ Therefore, Ameritech would like to first restate its position. Although Ameritech believes that it is appropriate that LNP contribute its fair share toward recovery of general overhead costs, it did not make that proposal in its PFR. Rather, consistent with the Commission's LNP Cost Recovery Order, Ameritech seeks to recover only those LNP costs, including direct and overhead, that are truly incremental to LNP. While some

¹⁰ See, ATT 5-6, and TRA at 2-6. TRA also argues that "the integrity of a regulatory process should not be sacrificed to accommodate a carrier that cannot identify and document its own costs." TRA misses the point. The problem is that it is not practical or economic for any company to identify and measure with specificity overhead costs that increase when it adds a significant new function. That fact explains why virtually all firms identify and measure overhead costs through the use of factors, and why the Commission has permitted the use of such factors

interexchange carriers oppose proposals by other incumbent LECs seeking recovery of a reason contribution toward general overhead costs through the LNP surcharge, these interexchange carriers should not sweep Ameritech's proposal into the same pot.

Ameritech's position is that under the Commission's LNP Cost Recovery Order, it must be able to recover all incremental costs applicable to the provision of this functionality, both **direct and overhead**. These costs include not only **directly identifiable costs**, such as switch software upgrades, but also overhead costs, such as legal support or human resources supporting personnel directly involved in the provision of LNP functionality.

Failure to recover all incremental costs, including incremental overhead costs, will violate the competitive-neutrality principles of the Commission's LNP Cost Recovery Order. As explained in Ameritech's PFR, precluding recovery of some of the bona fide incremental costs of providing number portability would violate the Commission's definition of competitive neutrality.¹¹ Indeed, it would violate both prongs of the Commission's "two-pronged test" for competitive neutrality.

All incumbent LECs that addressed the issue of measurement of incremental overhead costs agree with Ameritech that incumbent LECs should recover all incremental overhead costs of LNP through the use of a loading factor.¹² AT&T on the surface seems to oppose Ameritech's proposal on recovery of overhead costs, but a close reading of its Opposition and its other pleading filed in this docket, disclose that it is in agreement with Ameritech that all incremental overhead costs should be recovered through the surcharge. AT&T asserts in its August 3rd Comments that "while an ILEC may properly recover some reasonable level of overhead costs

for many years. Ameritech simply seeks to use the same process here.

¹¹ Ameritech PFR, Aron Section V.

¹² BellSouth 4; Cincinnati Bell 2; and SBC 1-3.

that are actually caused by LNP, the Cost Recovery Order expressly prohibits it from attempting to spread the *general overhead costs* of its overall operations to portability surcharges or query charges.”¹³ (italics added). Ameritech and AT&T are thus in agreement on the interpretation of the LNP Cost Recovery Order.

AT&T implies at page 11 of its August 3rd Comments that Ameritech does not distinguish between fixed overhead costs that are not impacted by LNP, and those that are that are truly incremental to LNP. However, AT&T is mistaken. Ameritech does not claim that all overhead costs increase with the scale and scope of a firm and, therefore, should be reflected in the LNP loading factor. Rather, Ameritech demonstrated that some overhead costs are affected by changes in the scale and scope of a company, while others are fixed and do not increase as the size of the firm increases. As Dr. Aron explained at length in the White Paper attached to Ameritech’s PFR (pages 5-7), overhead costs that are affected by changes in the size and scope of production are incremental costs of each new service or capability, while overhead costs that are fixed (are not affected by size or scope the firm) are common costs that are not incremental to each new service or capability. Accordingly, Ameritech seeks to recover through the LNP surcharge loading factors only overhead costs that increase with the size and scope of its operations.

B. Loading Factors Account For Incremental Overhead Costs That Cannot be Directly Identified or Measured.

As is explained in Dr. Aron’s White Paper (pages 8-15), it is not practical or economical to try to account for all incremental overhead costs through direct allocation of costs. It is, therefore, appropriate, in order to avoid creating anticompetitive pricing structures that “loading factors” be used, in order to capture all costs that are truly incremental to LNP.

¹³ AT&T Comments filed August 3, 1998 (“August 3rd Comments”), at i-ii. See also, page 10.

AT&T is in agreement with Ameritech that it is reasonable to recover incremental overhead costs via the use of factors. AT&T has acknowledged that “[t]o the extent claimed ‘overhead’ costs represent actual, incremental LNP-related expenditures, ILECs properly may include an overhead factor in their calculations of their LNP costs.” (AT&T August 3rd Comments at 9.)

Ameritech is proposing to use the so-called “Shared and Common Cost Study” performed by Arthur Andersen as a starting point to identify incremental overheads. This study examined the functional activities within Ameritech, and these functional descriptions can be used to estimate which overheads would be incremental, on a forward looking basis, to LNP.

AT&T’s opposition to Ameritech’s PFR thus boils down to an opposition to certain costs that were reflected in the Arthur Andersen Study that was used at the state level in TELRIC pricing dockets. Specifically, AT&T incorrectly claims that Ameritech is seeking to include in its allocation factor costs of “corporate skyboxes at sporting events or golf tournament sponsorships.” (AT&T at 6) Ameritech is not requesting to include these types of costs in the LNP expense pool. Rather, Ameritech is only seeking to include in the factor the incremental costs, both direct and overhead, that are incremental to the LNP functionality. Those costs will not include the items complained about by AT&T, since they are not the type of costs that increase with the size and scope of Ameritech’s operations.

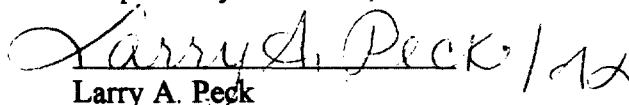
More fundamentally, AT&T’s complaint misses the point. Ameritech is not requesting that the Commission endorse the Arthur Andersen Study or the recovery of any particular cost at this time. Rather, it is simply asking the Commission to clarify that under its LNP Cost Recovery Order, incumbent LECs may use loading factors to estimate incremental overhead costs attributable to LNP that cannot be measured directly. The issue of what is the correct

factor, and what costs it should reflect, should be addressed when Ameritech files its proposed surcharge and proposes a specific factor. While AT&T's attack on the Andersen Study is not timely, it should be noted that the state commissions in Illinois, Ohio and Wisconsin all generally accepted it and used it as the basis for calculating TELRIC loading factors.¹⁴

III. CONCLUSION.

For the reasons stated above, the Commission should grant Ameritech's PFR.

Respectfully submitted,

A handwritten signature in cursive script, reading "Larry A. Peck", followed by a vertical line and a checkmark-like flourish.

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Dated: September 16, 1998
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¹⁴ AT&T also claims that "many of the ILEC LNP query tariffs filed to date have attempted to charge for 'joint or common costs' or other 'costs' in addition to overhead-markups which appear to represent pure profit." (AT&T August 3rd Comments at 12) AT&T's claim is not applicable to Ameritech, since it did not propose inclusion of profits in the incremental loading factors for the LNP.

CERTIFICATE OF SERVICE

I, Todd H. Bond, do hereby certify that a copy of the foregoing Reply to Oppositions to Proposal for Reconsideration and Clarification has been served on all parties of record, via first class mail, postage prepaid, on this 16th day of August, 1998.

By:

Todd H. Bond / AX
Todd H. Bond